

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

2311 RACING LLC d/b/a 23XI RACING, and  
FRONT ROW MOTORSPORTS, INC.,

Plaintiffs,

v.

NATIONAL ASSOCIATION FOR STOCK  
CAR AUTO RACING, LLC, NASCAR  
HOLDINGS, LLC, NASCAR EVENT  
MANAGEMENT, LLC, and JAMES FRANCE,

Defendants.

No. 3:24-cv-886-KDB-SCR

NASCAR EVENT MANAGEMENT, LLC,

Counter-Plaintiff,

v.

2311 RACING LLC d/b/a 23XI RACING,  
FRONT ROW MOTORSPORTS, INC., and  
CURTIS POLK,

Counter-Defendants.

**RESPONSE TO NASCAR'S MOTION  
FOR JUDICIAL SETTLEMENT CONFERENCE**

NASCAR's Motion for a Judicial Settlement Conference is another effort to play to the court of public opinion and attempt to color the perception of Plaintiffs, rather than to progress this case earnestly toward a negotiated resolution. The parties designated Jeffrey A. Mishkin of Phillips ADR Enterprises as mediator on January 28, 2025. Mr. Mishkin is the former Executive Vice President and Chief Legal Officer of the National Basketball Association and was the head of the Sports Practice at Skadden, Arps, Slate, Meagher & Flom for more than twenty years where he represented the PGA TOUR, NFL, NHL, MLB, NCAA, MLB, and U.S. Tennis Association, among many other sports organizations. He has significant expertise in complex, sports-related antitrust disputes and has served as an arbitrator or mediator for the international Court of Arbitration for Sport, the America's Cup, FIFA, and the NFL, among others.

Mr. Mishkin has invested a great deal of time learning this case and meeting with the parties—not just at the in-person mediation session on August 5, 2025, but in multiple phone calls with the parties' counsel prior and subsequent to the mediation. Plaintiffs have thus requested that NASCAR continue to engage with them via Mr. Mishkin or to make a settlement offer directly to Plaintiffs' counsel, but NASCAR has not responded to those requests and instead filed this motion. It seems NASCAR is not happy with the diagnosis and wants to seek a second opinion.

Plaintiffs submit that, with a mere eight weeks until trial, starting over with a judicial officer who will have to learn the case background and the parties' history is less likely, not more likely, to lead to resolution, which all interested parties appear to agree is in their collective best interests. Accordingly, Plaintiffs respectfully maintain that the Court should instead order the parties to engage in another session with the previously selected mediator. However, Plaintiffs remain willing and available to engage in meaningful settlement discussions anytime, anywhere, and with anyone.

Dated: October 6, 2025

Respectfully submitted,

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### **CERTIFICATE OF COMPLIANCE**

No artificial intelligence was employed in doing the research for the preparation of this document, with the exception of such artificial intelligence embedded in the standard on-line legal research sources Westlaw, Lexis, FastCase, and Bloomberg. Every statement and every citation to an authority in this document has been checked by an attorney in this case and/or a paralegal working at his/her direction (or the party making the filing if acting pro se) as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **RESPONSE TO NASCAR'S MOTION FOR JUDICIAL SETTLEMENT CONFERENCE** was electronically filed using the Court's CM/ECF system, which will automatically send notice of this filing to counsel of record for all parties, including:

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